


Plaintiff filed objections to the Report, asserting that his life was in danger during Hurricane Rita in September 2005. However, the inquiry concerning the prisoner's danger is to be made at the time of the motion to proceed *in forma pauperis*. See *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff has failed to allege or demonstrate that his life was in danger at the time he filed the complaint in December 2005. Accordingly, plaintiff is not allowed to

proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g) due to having had more than three prior actions dismissed as frivolous.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED at Beaumont, Texas, this 7th day of June, 2006.

A handwritten signature in cursive script, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE